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10/821,833

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John T. Bretcher

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EXAMINER

BHATIA, AJAY M

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/821,833	<b>Applicant(s)</b> BRETCHER, JOHN T.	
	<b>Examiner</b> AJAY BHATIA	<b>Art Unit</b> 2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 2/4/2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/8/2007; 2/4/2008</u> .                                      | 6) <input type="checkbox"/> Other: _____                          |

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-29 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 16-97 of copending Application No. 11/825,111. Although the conflicting claims are not identical, they are not patentably distinct from each other because Based upon remarks made by the applicant, the continuing application are directed to the same invention of connecting users to play games over a network on a server.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-29 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 16-73 of copending

Application No. 11/825,112. Although the conflicting claims are not identical, they are not patentably distinct from each other because Based upon remarks made by the applicant, the continuing application are directed to the same invention of connecting users to play games over a network on a server.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-29 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 16-43 of copending Application No. 11/825,601. Although the conflicting claims are not identical, they are not patentably distinct from each other because Based upon remarks made by the applicant, the continuing application are directed to the same invention of connecting users to play games over a network on a server.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-29 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 16-102 of copending Application No. 11/825,602. Although the conflicting claims are not identical, they are not patentably distinct from each other because Based upon remarks made by the applicant, the continuing application are directed to the same invention of connecting users to play games over a network on a server.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-29 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 45-125 of copending Application No. 11/254,216. Although the conflicting claims are not identical, they are not patentably distinct from each other because Based upon remarks made by the applicant, the continuing application are directed to the same invention of connecting users to applications over a network on a server.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-29 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 16-36, 55-80 of copending Application No. 11/493,940. Although the conflicting claims are not identical, they are not patentably distinct from each other because Based upon remarks made by the applicant, the continuing application are directed to the same invention of connecting users to play games over a network on a server.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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Claims 12-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Grimm et al. (U.S. Patent 5,828,843)

For claim 12, Grimm teaches, a computer system architecture for processing real-time applications, the architecture comprising:

a front-end server; (Grimm, Col. 2 lines 41-52, ,match maker)

a plurality of dedicated processors coupled to the front-end server so that the front-end server can communicate with at least one of the plurality of dedicated processors;

(Grimm, Col. 2 lines 41-52, ,match maker)

a coupler communicating with the front-end server, the plurality of dedicated processors and a plurality of users, wherein one or more users communicates with the front-end server to select a selected application and the front-end server communicates with the plurality of users and at least one selected dedicated processor executes the desired application, the coupler including:

means for selecting at least one of the plurality of dedicated processors to execute the selected application; (Grimm, Col. 3 line 45 to Col. 4 line 30, launch application) and

means for decoupling a plurality of users from the front-end server and coupling the

plurality of users to the at least one of the selected dedicated processors so that the

plurality of users is communicating directly with the selected dedicated processors so

that the plurality of users can participate in the execution of the selected application.

(Grimm, Col. 12 lines 20-31, matcher maker no longer essential, Col. 7 line 65 to Col. 8

line 15, latency between server and clients)

For claim 13, Grimm teaches, the computer system of claim 12 further comprising a voice bridge configured to be coupled between one or more users of the plurality of users and the at least one selected dedicated processor. (Grimm, Col. 9 lines 18-31, speech data)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11 and 14-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grimm et al. (U.S. Patent 5,828,843) in view of Butterworth et al. (U.S. Patent 5,457,797).

For claim 1, Grimm teaches, a method for processing real-time applications, the method comprising:

providing a front-end server; (Grimm, Col. 2 lines 41-52, ,match maker)

providing a plurality of dedicated processors coupled to the front-end server so that the front-end server can communicate with at least one of the plurality of dedicated processors; (Grimm, Col. 2 lines 41-52, matched server)

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selecting at least one of the plurality of dedicated processors to execute a selected application; (Grimm, Col. 3 lines 45-67, Col. 6 lines 16-50, launch game) initiating communication between a plurality of users and the at least one of the selected dedicated processors so that the plurality of users can participate in the execution of the selected application; (Grimm, Col. 3 line 45 to Col. 4 line 30, match users) executing the selected application at the at least one of the selected dedicated processors; (Grimm, Col. 3 line 45 to Col. 4 line 30, launch application) and suspending communication between the plurality of users and the front end server. (Grimm, Col. 12 lines 20-31, matcher maker no longer essential, Col. 7 line 65 to Col. 8 line 15, latency between server and clients)

Grimm fails to clearly disclose, transferring the selected application from a memory device to the at least one of the plurality of dedicated processors for execution;

Butterworth teaches, transferring the selected application from a memory device to the at least one of the plurality of dedicated processors for execution; (Butterworth, Col. 6 lines 42-47, distributed application, Col. 6 lines 57-58, image server, Col. 7 lines 15-35, invoke, replicated )

Butterworth and Grimm are compatible (Butterworth, Col. 5 lines 35-40, run easily in a new environment)



Butterworth and Grimm are both in the field of network applications

It would be obvious to one of ordinary skill at the time of the invention to combine Grimm with Butterworth because Butterworth provides for a system with increase reliability. (Butterworth, Col. 5 lines 30-35)

For claim 2, Grimm-Butterworth teaches, a method according to claim 1 further comprising:

storing a plurality of applications in the memory device, the memory device being coupled to the front-end server; (Butterworth, Col. 6 lines 42-47, distributed application) and

at the front-end server, generating appropriate communication signals to download the selected application to the at least one of the plurality of dedicated processors.

(Butterworth, Col. 6 lines 57-58, image server) The same motivation that was utilized in the rejection of claim 1, applies equally as well to claim 2.

For claim 3, Grimm-Butterworth teaches, a method according to claim 1 further comprising:

storing applications in a memory associated with each of the plurality of dedicated processors. (Butterworth, Col. 6 lines 57-58, image server) The same motivation that was utilized in the rejection of claim 1, applies equally as well to claim 3.

For claim 4, Grimm-Butterworth teaches, a method according to claim 1 wherein selecting at least one of the plurality of dedicated processors includes polling the plurality of dedicated processors by the front-end server to determine which one of the plurality of dedicated processors is available to execute the selected application before that application is downloaded to the selected dedicated processor. (Grimm, Col. 3 lines 5-20, application attributes)

For claim 5, Grimm-Butterworth teaches, a method according to claim 1 wherein selecting at least one of the plurality of dedicated processors includes the plurality of dedicated processors communicating their status to the front-end server. (Grimm, Col. 3 lines 45-67, communicate attributes to match office)

For claim 6, Grimm-Butterworth teaches, a method according to claim 1 wherein the plurality of dedicated processors are heterogeneous. (Grimm, Col. 5 lines 30-45, matching server)

For claim 7, Grimm-Butterworth teaches, the method of claim 1 further comprising: providing a voice bridge between one or more users of the plurality of users. (Grimm, Col. 9 lines 18-31, speech data)

For claim 8, Grimm-Butterworth teaches, the method of claim 1 further comprising:  
providing a voice bridge between one or more users of the plurality of users and one or more processors of the plurality of dedicated processors. (Grimm, Col. 9 lines 18-31, speech data)

For claim 9, Grimm teaches, a method for processing real-time applications which may be executed by a plurality of users, the method comprising:

providing a front-end server that has access to a plurality of applications; (Grimm, Col. 2 lines 41-52, ,match maker)

providing a plurality of dedicated processors that communicate with the front-end server, the plurality of dedicated processor being inhomogeneous; (Grimm, Col. 5 lines 30-45, matching server, Col. 3 lines 6-20, application attributes)

receiving a message from at least one user of the plurality of users to the front-end server that the at least one user desires to have executed a particular application; (Grimm, Col. 3 line 42 to Col. 4 line 35, matches)

retrieving the particular application selected by the at least one user; (Grimm, Col. 3 line 42 to Col. 4 line 35, matches)

selecting a dedicated process that is of the appropriate type and capacity to run the particular application; (Grimm, Col. 3 line 42 to Col. 4 line 35, matches)

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initiating communication between the plurality of users and the selected dedicated processor; (Grimm, Col. 12 lines 20-31, matcher maker no longer essential, Col. 7 line 65 to Col. 8 line 15, latency between server and clients) and executing the particular application selected by the at least one user on the selected dedicated processor. (Grimm, Col. 3 line 45 to Col. 4 line 30, launch application)

Grimm fails to clearly disclose, downloading the particular application selected by the at least one user to a memory in the selected dedicated processor;

downloading the particular application selected by the at least one user to a memory in the selected dedicated processor; (Butterworth, Col. 6 lines 42-47, distributed application, Col. 6 lines 57-58, image server, Col. 7 lines 15-35, invoke, replicated)

Butterworth and Grimm are compatible (Butterworth, Col. 5 lines 35-40, run easily in a new environment)

Butterworth and Grimm are both in the field of network applications

It would be obvious to one of ordinary skill at the time of the invention to combine Grimm with Butterworth because Butterworth provides for a system with increase reliability. (Butterworth, Col. 5 lines 30-35)

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For claim 10, Grimm-Butterworth teaches, the method of claim 9 further comprising: requesting at the front-end server status information from the plurality of dedicated processors; (Grimm, Col. 3 line 45 to Col. 4 line 30, match making) and receiving the status information at the front-end server. (Grimm, Col. 3 line 45 to Col. 4 line 30, match making)

For claim 11, Grimm-Butterworth teaches, the method of claim 9 further comprising: after initiating communication between the plurality of users and the selected dedicated processor, suspending communication between the plurality of users and the front-end server so that the plurality of users are communicating directly with the selected dedicated processor. (Grimm, Col. 12 lines 20-31, matcher maker no longer essential)

For claim 14, Grimm fails to clearly disclose, an architecture according to claim 13 further comprising a memory coupled to the front-end server for storing a plurality of applications wherein the front-end server downloads a selected application to at least one of the plurality of dedicated processors.

Butterworth teaches, an architecture according to claim 13 further comprising a memory coupled to the front-end server for storing a plurality of applications wherein the front-end server downloads a selected application to at least one of the plurality of dedicated processors. (Butterworth, Col. 6 lines 42-47, distributed application, Col. 6 lines 57-58, image server, Col. 7 lines 15-35, invoke, replicated)

Butterworth and Grimm are compatible (Butterworth, Col. 5 lines 35-40, run easily in a new environment)

Butterworth and Grimm are both in the field of network applications

It would be obvious to one of ordinary skill at the time of the invention to combine Grimm with Butterworth because Butterworth provides for a system with increase reliability. (Butterworth, Col. 5 lines 30-35)

For claim 15, Grimm fails to clearly disclose, an architecture according to claim 13 further comprising a memory for each of the plurality of dedicated processors for storing applications.

an architecture according to claim 13 further comprising a memory for each of the plurality of dedicated processors for storing applications. (Grimm, Col. 6 lines 57-58, image server)

Butterworth and Grimm are compatible (Butterworth, Col. 5 lines 35-40, run easily in a new environment)

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Butterworth and Grimm are both in the field of network applications

It would be obvious to one of ordinary skill at the time of the invention to combine Grimm with Butterworth because Butterworth provides for a system with increase reliability. (Butterworth, Col. 5 lines 30-35)

For claim 16, Grimm teaches, a method of processing an application, the method comprising:

providing a front-end server; (Grimm, Col. 2 lines 41-52, ,match maker)

providing a plurality of dedicated processors coupled to the front-end server; (Grimm, Col. 2 lines 41-52, ,match maker)

selecting an application; (Grimm, Col. 2 lines 41-52, ,match maker)

enabling communication between a user and the at least one of the dedicated processors such that the user can participate in the execution of the selected application; (Grimm, Col. 3 lines 45-67, Col. 6 lines 16-50, match making)

executing the selected application at the at least one of the dedicated processors; (Grimm, Col. 3 lines 45-67, Col. 6 lines 16-50, launch game) and

suspending communication between the user and the front end server. (Grimm, Col. 12 lines 20-31, matcher maker no longer essential, Col. 7 line 65 to Col. 8 line 15, latency between server and clients)

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Grimm fails to clearly disclose, transferring the selected application to the at least one of the plurality of dedicated processors for execution;

Butterworth teaches, transferring the selected application to the at least one of the plurality of dedicated processors for execution; (Butterworth, Col. 6 lines 42-47, distributed application, Col. 6 lines 57-58, image server, Col. 7 lines 15-35, invoke, replicated)

Butterworth and Grimm are compatible (Butterworth, Col. 5 lines 35-40, run easily in a new environment)

Butterworth and Grimm are both in the field of network applications

It would be obvious to one of ordinary skill at the time of the invention to combine Grimm with Butterworth because Butterworth provides for a system with increase reliability. (Butterworth, Col. 5 lines 30-35)

For claim 17, Grimm-Butterworth teaches, a method according to claim 16, further comprising:

storing a plurality of applications; (Butterworth, Col. 6 lines 57-58, image server)

and at the front-end server, generating appropriate communication signals to transfer the selected application to the at least one of the plurality of dedicated processors by



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downloading an instance of a selected application. (Butterworth, Col. 6 lines 42-47, distributed application) The same motivation that was utilized in the rejection of claim 16, applies equally as well to claim 17.

For claim 18, Grimm-Butterworth teaches, a method according to claim 16, further comprising:

selecting at least one of the plurality of dedicated processors to execute the selected application. (Grimm, Col. 3 line 45 to Col. 4 line 30, launch application)

For claim 19, Grimm-Butterworth teaches, a method according to claim 18, wherein the selecting at least one of the plurality of dedicated processors includes polling the plurality of dedicated processors by the front-end server to determine which of the plurality of dedicated processors is available to execute the selected application before that application is transferred to the selected at least one of the plurality of dedicated processors. (Grimm, Col. 3 line 45 to Col. 4 line 30, match making)

For claim 20, Grimm-Butterworth teaches, a method according to claim 18, wherein the selecting at least one of the plurality of dedicated processors includes the plurality of dedicated processors communicating their status to the front-end server. (Grimm, Col. 3 line 45 to Col. 4 line 30, match making)

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For claim 21, Grimm-Butterworth teaches, a method according to claim 16, wherein the dedicated processors are heterogeneous. (Grimm, Col. 2 line 55 to Col. 3 line 5, performance)

For claim 22, Grimm-Butterworth teaches, a method according to claim 16, further comprising:

enabling communication between at least one additional user and the at least one of the dedicated processors such that the user and the at least one additional user can participate in the execution of the selected application. (Grimm, Col. 3 line 45 to Col. 4 line 30, match making)

For claim 23, Grimm-Butterworth teaches, the method of claim 22, further comprising: providing a voice bridge between the user and the at least one additional user to facilitate the voice communication. (Grimm, Col. 9 lines 18-31, speech data)

For claim 24, Grimm-Butterworth teaches, the method of claim 22, further comprising: providing a voice bridge between the user and the at least one additional user and one or more processors of the plurality of dedicated processors to facilitate the voice communication. (Grimm, Col. 9 lines 18-31, speech data)

For claim 25, Grimm-Butterworth teaches, a method according to claim 16, wherein the front-end server authenticates a user name corresponding to said user selected

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application. (Grimm, Col. 3 line 45 to Col. 4 line 30, compatible before allowed to join, Col. 2 lines 60-67, skill, age)

For claim 26, Grimm-Butterworth teaches, a method according to claim 22, further including implementing a user profile for said user. (Grimm, Col. 2 lines 60-67, skill, age)

For claim 27, Grimm-Butterworth teaches, a method according to claim 16, wherein the selected application is a game application. (Grimm, Col. 9 lines 18-32, interactive game)

For claim 28, Grimm-Butterworth teaches, a method according to claim 22, wherein the selected application is a game application. (Grimm, Col. 9 lines 18-32, interactive game)

For claim 29, Grimm-Butterworth teaches, a method according to claim 25 further comprising:

executing an application on the front-end server; (Grimm, Col. 3 line 45 to Col. 4 line 30, match making)

and initiating communication between the user and the front-end server so that the user can participate in the execution of the application. (Grimm, Col. 3 line 45 to Col. 4 line 30, match making)

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached Notice of references cited (if appropriate).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ajay M. Bhatia whose telephone number is (571)-272-3906. Also any interview requests should be faxed directly to the examiner at (571)-273-3906. The examiner can normally be reached on M-F 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571)272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason D Cardone/  
Supervisory Patent Examiner, Art Unit 2145